

By Chris Harris

H.B. No. 2327

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbers, cosmetologists, and certain hair care shops and salons; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ADOPTION OF ACT. The Texas Barber and Cosmetologist Act is adopted to read as follows:

Sec. 1. SHORT TITLE. This Act may be cited as the Texas Barber and Cosmetologist Act.

Sec. 2. DEFINITIONS. In this Act:

(1) "Barber" means a person who practices barbering for compensation.

(2) "Barbering" means:

(A) arranging, beautifying, coloring, processing, shaving, styling, or trimming a mustache or beard by any means or method;

(B) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, waving, or otherwise treating hair as primary services, treatments, or undertakings by any means or method, including any bobbing, clipping, cutting, or trimming of the hair as a necessary incident preparatory or ancillary to the primary services;

(C) cutting the hair as a primary service, treatment, or undertaking and not as a necessary incident preparatory or ancillary to those primary services enumerated in Subdivision

1 (2)(B) of this section, or primarily engaging in the occupation of  
2 cutting hair or practicing primarily as a haircutter by cutting  
3 hair as a separate and independent service, treatment, or  
4 undertaking for which haircut a charge is made separate and apart  
5 from any other service, treatment, or undertaking, directly or  
6 indirectly, or in any manner whatsoever;

7 (D) cleansing, stimulating, or massaging the scalp, face,  
8 neck, arms, shoulders, or that part of the body above the  
9 shoulders, by means of the hands, devices, apparatus, or  
10 appliances, with or without the use of cosmetic preparations,  
11 antiseptics, tonics, lotions, or creams;

12 (E) beautifying the face, neck, arms, shoulders, or that  
13 part of the body above the shoulders, by the use of cosmetic  
14 preparations, antiseptics, tonics, lotions, powders, oils, clays,  
15 creams, or appliances;

16 (F) cutting, trimming, polishing, tinting, coloring,  
17 cleansing, or manicuring the nails of any person or attaching false  
18 nails;

19 (G) massaging, cleansing, treating, or beautifying the hands  
20 of any person;

21 (H) administering facial treatments;

22 (I) hair weaving;

23 (J) shampooing or conditioning hair; or

24 (K) servicing a wig, toupee, or artificial hairpiece on a  
25 human head or on a block, after the initial retail sale, by any of  
26 the acts, services, works, treatments, or undertakings enumerated  
27 in Subdivision (2)(B) of this section.

1           (3) "Barber shop" means a place at which barbering is  
2 practiced for compensation.

3           (4) "Board" means the Texas Board of Barber and  
4 Cosmetologist Examiners.

5           (5) "Person" means an individual, association, firm,  
6 corporation, partnership, or other legal entity.

7           (6) "Cosmetologist" means a person who practices cosmetology  
8 for compensation.

9           (7) "Cosmetology" means:

10           (A) arranging, beautifying, bleaching, tinting, cleansing,  
11 coloring, dressing, dyeing, processing, shampooing, shaping,  
12 singeing, straightening, styling, waving, or otherwise treating the  
13 hair as primary services, treatments, or undertakings by any means  
14 or method, including any bobbing, clipping, cutting, or trimming of  
15 the hair as a necessary incident preparatory or ancillary to such  
16 primary services;

17           (B) cutting the hair as a primary service, treatment, or  
18 undertaking and not as a necessary incident preparatory or  
19 ancillary to those primary services enumerated in Subdivision  
20 (2)(B) of this section, or primarily engaging in the occupation of  
21 cutting hair or practicing primarily as a haircutter by cutting  
22 hair as a separate and independent service, treatment, or  
23 undertaking for which haircut a charge is made separate and apart  
24 from any other service, treatment, or undertaking, directly or  
25 indirectly, or in any manner whatsoever;

26           (C) cleansing, stimulating, or massaging the scalp, face,  
27 neck, or arms by means of the hands, devices, apparatus, or

1 appliances, with or without the use of cosmetic preparations,  
2 antiseptics, tonics, lotions, or creams; beautifying the face,  
3 neck, or arms by use of cosmetic preparations, antiseptics, tonics,  
4 lotions, powders, oils, clays, creams, or appliances;

5 (D) removing superfluous hair from the body by the use of  
6 depilatories or mechanical tweezers;

7 (E) cutting, trimming, polishing, tinting, coloring,  
8 cleansing, or manicuring the nails of any person; or attaching  
9 false nails or massaging, cleansing, treating, or beautifying the  
10 hands or feet of any person;

11 (F) administering facial treatments;

12 (G) hair weaving; or

13 (H) servicing a wig or artificial hairpiece on a human head  
14 or on a block subsequent to the initial retail sale by any of the  
15 practices enumerated in Subdivision (2)(B) of this section.

16 (8) "Beauty shop" means a place at which cosmetology is  
17 practiced for compensation.

18 (9) "Public school" includes a public high school, public  
19 junior college, or any other nonprofit tax-exempt institution  
20 conducting a cosmetology program.

21 Sec. 3. BOARD; MEMBERS. (a) The Texas Board of Barber and  
22 Cosmetology Examiners is created.

23 (b) The board is composed of 12 members appointed by the  
24 governor with the advice and consent of the senate and one ex  
25 officio member as provided by this subsection. Two members must be  
26 cosmetologists licensed by this state who do not have beauty shop  
27 permits or private beauty culture school licenses issued by this

1 state. One member must be a person who holds a beauty shop permit  
2 issued by this state and who has no affiliation with, or interest  
3 in, a private beauty culture school. One member must be a person  
4 who holds a private beauty culture school license and who has no  
5 affiliation with, or interest in, a beauty shop. Two members must  
6 be barbers licensed by this state who have at least five years'  
7 experience in the practice of barbering and who do not have barber  
8 shop permits issued by this state. One member must be a barber  
9 licensed by this state who has at least five years' experience in  
10 the practice of barbering and who has a barber shop permit issued  
11 by this state. One member must be a person who holds a permit  
12 issued by the board to conduct a barber school. Four members must  
13 be representatives of the general public who are not regulated  
14 under this Act and who do not have, other than as consumers,  
15 financial interests in cosmetology or barbering. The associate  
16 commissioner for occupational education and technology of the  
17 Central Education Agency, or that person's authorized  
18 representative, is an ex officio member of the board with voting  
19 privileges. A person is not eligible for appointment as a public  
20 member of the board if the person or the person's spouse:

21 (1) is licensed by an occupational regulatory agency in the  
22 field of barbering or cosmetology;

23 (2) is employed by or participates in the management of a  
24 business entity or other organization regulated by the board or  
25 receiving funds from the board;

26 (3) owns, controls, or has, directly or indirectly, more  
27 than a 10 percent interest in a business entity or other

1 organization regulated by the board or receiving funds from the  
2 board; or

3 (4) uses or receives a substantial amount of tangible goods,  
4 services, or funds from the board.

5 (c) The governor shall attempt to balance the appointments  
6 among the various geographical areas of this state.

7 (d) An officer, employee, or paid consultant of a trade  
8 organization in the field of barbering or cosmetology may not be a  
9 member or an employee of the board. A person who cohabits with or  
10 is the spouse of an officer, managerial employee, or paid  
11 consultant of a trade organization in the field of barbering or  
12 cosmetology may not be a member of the board or an employee of the  
13 board of grade 17 and over, including exempt employees, according  
14 to the position classification schedule under the General  
15 Appropriations Act.

16 (e) A member or employee of the board may not be, nor be  
17 related within the second degree by affinity or consanguinity to, a  
18 person who is an officer, employee, or paid consultant of a trade  
19 association for barbers or cosmetologists.

20 (f) A person who is required to register as a lobbyist under  
21 Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973  
22 (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as  
23 a member of the board or act as general counsel to the board.

24 (g) The governor shall make appointments to the board  
25 without regard to the race, color, handicap, sex, religion, age, or  
26 national origin of the appointees.

27 Sec. 4. TERMS. Appointed members of the board hold office

1 for staggered terms of six years. Four appointed members' terms  
2 expire February 1 of each odd-numbered year. In the event of a  
3 vacancy during a term, the governor shall appoint a replacement who  
4 meets the qualifications of the vacated office to fill the  
5 unexpired part of the term.

6 Sec. 5. EXPENSES. A member of the board may not receive  
7 compensation for service on the board. A member is entitled to  
8 reimbursement for actual and necessary expenses incurred in  
9 performing the functions of the board.

10 Sec. 6. OFFICERS; QUORUM; MEETINGS. (a) The governor shall  
11 designate the presiding officer of the board from among the members  
12 of the board. The board shall annually elect from its membership  
13 other officers that the board considers necessary. The presiding  
14 officer shall have a vote on all matters before the board.

15 (b) A majority of the full membership constitutes a quorum  
16 for the transaction of business.

17 (c) The board shall meet at least once each year. The board  
18 may meet at other times at the call of the presiding officer or as  
19 provided by the rules of the board.

20 (d) The board shall develop and implement policies that  
21 provide the public with a reasonable opportunity to appear before  
22 the board and to speak on any issue under the jurisdiction of the  
23 board.

24 Sec. 7. GROUNDS FOR REMOVAL. (a) It is a ground for  
25 removal from the board if an appointed member:

26 (1) does not have at the time of appointment the  
27 qualifications required for appointment to the board;

1           (2) does not maintain during service on the board the  
2 qualifications required for appointment to the board;

3           (3) violates a prohibition established by this Act; or

4           (4) fails to attend at least half of the meetings of the  
5 board that are held during a calendar year.

6           (b) The validity of an action of the board is not affected  
7 by the fact that it was taken while a ground for removal of a  
8 member of the board existed.

9           (c) If the executive director knows that a potential ground  
10 for removal exists, the executive director shall notify the  
11 presiding officer of the board of the ground. The presiding  
12 officer shall notify the governor that a potential ground for  
13 removal exists.

14           Sec. 8. GENERAL POWERS AND DUTIES OF BOARD. (a) The board  
15 shall establish the qualifications for applicants for licenses,  
16 certificates, and permits issued under this Act.

17           (b) The board may revoke, suspend, or deny a license,  
18 certificate, or permit, place on probation a person regulated under  
19 this Act whose license or permit has been suspended, or reprimand a  
20 person regulated under this Act for a violation of this Act or a  
21 rule adopted under this Act.

22           (c) If the board proposes to suspend or revoke a person's  
23 license, certificate, or permit, the person is entitled to a  
24 hearing before the board or a hearings officer appointed by the  
25 board. All final decisions to suspend or revoke shall be made by  
26 the board.

27           (d) The board shall prescribe the minimum curricula of the



1 subjects and hours taught by barber schools and beauty culture  
2 schools.

3 (e) In conjunction with the Texas Department of Health, the  
4 board shall adopt rules relating to sanitary practices in  
5 facilities regulated under this Act.

6 (f) The board shall prepare information of consumer interest  
7 describing the functions of the board and the legal rights of  
8 consumers as affected by this Act. The information must describe  
9 the procedure by which a consumer complaint is filed with and  
10 resolved by the board. The board shall make the information  
11 available to the general public and to appropriate state agencies.  
12 If a written complaint is filed with the board, the board shall  
13 notify the complainant of the status of the complaint at least as  
14 often as quarterly until the complaint is resolved. The board  
15 shall keep an information file about each complaint filed with the  
16 board relating to a licensee or entity regulated by the board.

17 (g) The board, or any authorized inspector or other  
18 representative of the board, may enter the premises of any person  
19 who holds a license, permit, or certificate under this Act at any  
20 time during normal business hours to determine whether or not the  
21 person is in compliance with this Act and the rules adopted under  
22 this Act.

23 (h) The board is subject to the open meetings law, Chapter  
24 271, Acts of the 60th Legislature, Regular Session, 1967 (Article  
25 6252-17, Vernon's Texas Civil Statutes), and the Administrative  
26 Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas  
27 Civil Statutes).

1           (i) The board may not adopt rules restricting competitive  
2 bidding or advertising by a person regulated by the board except to  
3 prohibit false, misleading, or deceptive practices by the person.  
4 The board may not include in its rules to prohibit false,  
5 misleading, or deceptive practices a rule that:

6           (1) restricts the person's use of any medium for  
7 advertising;

8           (2) restricts the person's personal appearance or use of the  
9 person's voice in an advertisement;

10          (3) relates to the size or duration of an advertisement by  
11 the person; or

12          (4) restricts the person's advertisement under a trade name.

13          (j) The board shall provide to its members and employees as  
14 often as is necessary information regarding their qualifications  
15 under this Act and their responsibilities under applicable laws  
16 relating to standards of conduct for state officers or employees.

17          (k) The board shall file annually with the governor and the  
18 presiding officer of each house of the legislature a complete and  
19 detailed written report accounting for all funds received and  
20 disbursed by the board during the preceding year. The form of the  
21 annual report and the reporting time shall be that provided in the  
22 General Appropriations Act.

23          Sec. 9. FEES; AUDIT. (a) If the General Appropriations Act  
24 does not specify the amount of any applicable fees, the board shall  
25 establish reasonable and necessary fees for the administration of  
26 this Act. The board may not maintain unnecessary fund balances,  
27 and fee amounts shall be set in accordance with this prohibition.

1           (b) All sums of money paid to the board under this Act shall  
2 be deposited in the state treasury to the credit of the general  
3 revenue fund.

4           (c) The state auditor shall audit the financial transactions  
5 of the board at least once during each biennium.

6           Sec. 10. EXECUTIVE DIRECTOR; STAFF. (a) The board may  
7 employ an executive director who serves as the executive head of  
8 the board and performs its administrative duties.

9           (b) The executive director may employ other personnel as  
10 necessary to administer the functions of the board.

11           (c) The executive director of the board or that person's  
12 designee shall develop and implement policies that clearly define  
13 the respective responsibilities of the governing body of the board  
14 and the staff of the board.

15           (d) The executive director or that person's designee shall  
16 develop an intra-agency career ladder program, one part of which  
17 shall require the intra-agency posting of all nonentry level  
18 positions concurrently with any public posting.

19           (e) The executive director or that person's designee shall  
20 develop a system of annual performance evaluations based on  
21 measurable job tasks. All merit pay for board employees must be  
22 based on the system established under this section.

23           (f) The executive director or that person's designee shall  
24 prepare and maintain a written policy statement to assure  
25 implementation of a program of equal employment opportunity whereby  
26 all personnel transactions are made without regard to race, color,  
27 handicap, sex, religion, age, or national origin. The policy

1 statement shall include:

2 (1) personnel policies, including policies relating to  
3 recruitment, evaluation, selection, appointment, training, and  
4 promotion of personnel;

5 (2) a comprehensive analysis of the board's work force that  
6 meets federal or state guidelines;

7 (3) procedures by which a determination can be made of  
8 significant under-utilization, in the board's work force, of all  
9 persons of whom federal or state guidelines encourage a more  
10 equitable balance; and

11 (4) reasonable methods to appropriately address areas of  
12 significant under-utilization, in the board's work force, of all  
13 persons of whom federal or state guidelines encourage a more  
14 equitable balance.

15 (g) The policy statement shall be filed with the governor's  
16 office. The policy statement shall cover an annual period and be  
17 updated at least annually. The governor's office shall develop a  
18 biennial report to the legislature based on the information  
19 submitted. The report may be made separately or as a part of other  
20 biennial reports made to the legislature.

21 Sec. 11. PROHIBITED ACTS. (a) A person may not act or  
22 represent himself or herself as a barber or a cosmetologist unless  
23 the person holds the appropriate license issued under this Act.

24 (b) A person may not act as an instructor in a barber  
25 school, private beauty culture school, or public school barbering  
26 or cosmetology program unless the person holds an instructor  
27 license issued under this Act.

1           (c) A person may not practice a specialty under Section 16  
2 of this Act unless the person holds a specialty certificate issued  
3 under this Act.

4           (d) A person may not own, operate, or manage a barber shop,  
5 beauty shop, or specialty shop unless the owner, operator, or  
6 manager of the shop has a license issued under this Act for the  
7 shop.

8           Sec. 12. EXEMPTIONS; GRANDFATHER CLAUSE. (a) This Act does  
9 not apply to:

10           (1) a person who is a physician, dentist, chiropodist,  
11 chiropractor, osteopath, or nurse licensed under the law of this  
12 state if the person does not hold himself or herself out as a  
13 barber or cosmetologist;

14           (2) a person who only applies makeup for compensation if the  
15 person does not hold himself or herself out as a barber or  
16 cosmetologist;

17           (3) a person who is a commissioned or authorized medical or  
18 surgical officer of the United States Army, Navy, or Marine  
19 Hospital Service if the person does not hold himself or herself out  
20 as a barber or cosmetologist;

21           (4) a person volunteering services or an employee performing  
22 regular duties at a licensed nursing or convalescent custodial or  
23 personal care home when recipients of the services are patients  
24 residing in the home; or

25           (5) a person who owns, operates, or manages a licensed  
26 nursing, convalescent, custodial, or personal care home that allows  
27 a person who holds a license or certificate under this Act to

1 perform services for patients residing in the home on an occasional  
2 basis.

3 (b) Until January 1, 1988, a person registered before the  
4 effective date of this Act as a Class A barber by the State Board  
5 of Barber Examiners may act as a barber without holding a barber  
6 operator license issued under this Act. The board shall issue a  
7 barber operator license to each registered Class A barber who  
8 complies with the license application requirements of this Act and  
9 who pays to the board a license fee before January 1, 1988. The  
10 board may suspend or revoke a Class A barber's registration on the  
11 same grounds that the board may revoke a barber operator license  
12 under this Act.

13 (c) Until January 1, 1988, a person licensed before the  
14 effective date of this Act as a cosmetology operator by the Texas  
15 Cosmetology Commission may act as a cosmetologist without holding a  
16 cosmetology operator license issued under this Act. The board  
17 shall issue a cosmetology operator license to each licensed  
18 cosmetology operator who complies with the license application  
19 requirements of this Act and who pays to the board a license fee  
20 before January 1, 1988. The board may suspend or revoke a  
21 cosmetology operator license issued before the effective date of  
22 this Act on the same grounds that it may revoke a license issued  
23 under this Act.

24 (d) Until January 1, 1988, a person who holds a specialty  
25 certificate issued by the board may, before the expiration date of  
26 that certificate, receive an equivalent certificate by complying  
27 with the following guidelines:

1           (1) sending the renewal portion of the specialty certificate  
2 to the board along with a valid health certificate; and

3           (2) paying a certification fee set by the board.

4           (e) Until January 1, 1988, a person who holds a beauty shop  
5 license issued by the Texas Cosmetology Commission before the  
6 effective date of this Act may own, operate, or manage a beauty  
7 shop without holding a beauty shop license issued under this Act.  
8 The board may suspend or revoke a beauty shop license on the same  
9 grounds that it may revoke a beauty shop license under this Act.

10          (f) Until January 1, 1988, the owner, operator, or manager  
11 of a barber shop who holds a permit issued by the State Board of  
12 Barber Examiners may own, operate, or manage a barber shop without  
13 holding a permit issued under this Act. The board may suspend or  
14 revoke a barber shop permit issued by the State Board of Barber  
15 Examiners on the same grounds that the board may revoke a barber  
16 shop license under this Act.

17          Sec. 13. TYPES OF LICENSES; LICENSE REQUIREMENTS. (a)  
18 Licenses issued under this Act are of the following types:

19           (1) barber operator license;

20           (2) cosmetology operator license;

21           (3) barber instructor license; and

22           (4) cosmetology instructor license.

23          (b) A person who applies for a license under this Act must  
24 file a written application with the board on a form provided by the  
25 board, together with the application fee set by the board. The  
26 application must show to the satisfaction of the board that the  
27 applicant meets the requirements established by this Act for a

1 license. Each applicant must also pass a licensing examination as  
2 provided by Section 14 of this Act. The board shall issue an  
3 appropriate license to an individual who possesses the necessary  
4 requirements, passes the appropriate licensing examination, and  
5 pays the required fees. A person who wishes to practice in more  
6 than one capacity must pass the appropriate examination for each  
7 capacity.

8 (c) Except as provided by Subsection (d) of this section, an  
9 applicant for a license must be at least 16 years old and must have  
10 at least a seventh-grade education.

11 (d) An applicant for a license as a barber instructor or a  
12 cosmetology instructor must be at least 18 years old and must have  
13 at least a secondary school education.

14 (e) An applicant for a barber operator license must present  
15 evidence satisfactory to the board that the applicant has graduated  
16 from an approved course of instruction in a barber school regulated  
17 under this Act or a public school barbering program.

18 (f) An applicant for a barber instructor license must  
19 present evidence satisfactory to the board that the applicant holds  
20 a valid barber operator license issued under this Act and either  
21 has completed a postgraduate course of instruction of not less than  
22 six months in a barber school regulated under this Act or in a  
23 public school barbering program, or otherwise possesses sufficient  
24 experience and skill to practice as an instructor. The board shall  
25 issue a barber instructor license to an applicant who presents  
26 satisfactory evidence, meets the other requirements of this  
27 section, and passes the instructor examination as provided by



1 Section 14 of this Act.

2 (g) An applicant for a cosmetology operator license must  
3 present evidence satisfactory to the board that the applicant has  
4 completed at least 1,500 hours of instruction in an approved course  
5 of instruction in a private beauty culture school regulated under  
6 this Act or at least 1,000 hours of instruction in a public school  
7 cosmetology program, plus 500 hours of related high school courses  
8 prescribed by the board.

9 (h) An applicant for a cosmetology instructor license must  
10 present evidence satisfactory to the board that the applicant holds  
11 a valid cosmetology operator license and either has completed a  
12 postgraduate course of instruction of not less than six months or  
13 750 hours of instruction in a private beauty culture school  
14 regulated under this Act or a public school cosmetology program, or  
15 otherwise possesses sufficient experience and skill to practice as  
16 an instructor. The board shall issue an instructor license to an  
17 applicant who presents satisfactory evidence, meets the other  
18 requirements of this section, and passes the instructor examination  
19 as provided by Section 14 of this Act.

20 (i) Each applicant for a license under this section must  
21 present evidence satisfactory to the board that the applicant has  
22 passed a health examination conducted by a physician licensed to  
23 practice medicine in this state. The evidence must be submitted in  
24 writing and must be signed by the examining physician. The  
25 evidence must document that the applicant is free from any  
26 contagious or infectious disease.

27 Sec. 14. EXAMINATION. (a) Each applicant for a license

1 under this Act must pass a written examination prescribed by the  
2 board. An applicant shall apply to take the examination on a form  
3 prescribed by the board not later than the 10th day before the date  
4 on which the examination is scheduled. The examination application  
5 must be accompanied by a fee set as provided by this Act.

6 (b) The board shall prescribe the content of the examination  
7 and shall include in the examination a practical demonstration of  
8 haircutting and hairstyling by the applicant and a written  
9 examination that tests the knowledge of the applicant about hair  
10 and scalp diseases, sterilization of equipment used in barbering or  
11 cosmetology, and chemicals and tints used in barbering or  
12 cosmetology. The board shall determine the standards for  
13 acceptable performance on the examination.

14 (c) The board shall determine the times and places for  
15 licensing examinations. The examinations must be offered at least  
16 four times a year. The board shall give reasonable public notice  
17 of the examinations in the manner provided by its rules.

18 (d) The board shall notify each examinee of the results of  
19 the examination not later than 30 days after the examination date.  
20 However, if an examination is graded or reviewed by a national  
21 testing service, the board shall notify examinees of the results of  
22 the examination not later than the 14th day after the day on which  
23 the board receives the results from the testing service. If the  
24 notice of the examination results will be delayed for longer than  
25 90 days after the examination date, the board, before the 90th day,  
26 shall notify the examinees of the reason for the delay.

27 (e) If a person fails the examination and reapplies, the

1 board shall administer to the person only the parts of the  
2 examination failed by the person on the previous examination. The  
3 board may assess an additional examination fee.

4 (f) If requested in writing by a person who fails an  
5 examination administered under this Act, the board shall furnish  
6 the person with an analysis of the person's performance on the  
7 examination.

8 Sec. 15. LICENSE. (a) The board shall issue the  
9 appropriate license to a person who complies with the license  
10 application requirements of Section 13 of this Act, passes the  
11 examination administered under Section 14 of this Act, and pays the  
12 required license fee.

13 (b) The board may issue a duplicate license to a person who  
14 holds a license, applies for a duplicate, and pays the duplicate  
15 license fee.

16 (c) A person who holds a license under this Act shall  
17 publicly display the license near the work-chair used by the person  
18 in a barber or beauty shop.

19 Sec. 16. SPECIALTY CERTIFICATES. (a) A person may not  
20 perform an activity classified as a specialty under this Act  
21 without a specialty certificate issued by the board. Specialties  
22 under this Act are of the following classes:

- 23 (1) manicuring;  
24 (2) hair conditioning and shampooing;  
25 (3) wig care; and  
26 (4) facial care.

27 (b) A person who holds a license issued under this Act is

1 eligible for a specialty certificate without examination on payment  
2 of an application fee.

3 (c) A person who does not hold a license issued under this  
4 Act may apply for a specialty certificate by filing a written  
5 application with the board on a form provided by the board,  
6 together with the application fee set by the board. The  
7 application must show to the satisfaction of the board that the  
8 applicant meets the requirements established by this Act for a  
9 specialty certificate. Each applicant must also demonstrate to the  
10 board satisfactory performance of the appropriate skills in a  
11 practical examination administered by the board. The board shall  
12 issue an appropriate certificate to an individual who possesses the  
13 necessary requirements, passes the examination, and pays the  
14 required fees. A person who wishes to practice more than one  
15 specialty must pass the appropriate examination for each specialty.

16 (d) An applicant for a specialty certificate must be at  
17 least 16 years old and must have at least a seventh-grade  
18 education.

19 (e) An applicant for a specialty certificate must submit a  
20 health certificate to the board in the manner provided by Section  
21 13(i) of this Act.

22 Sec. 17. RECIPROCITY. The board shall issue a license or a  
23 specialty certificate without examination to a person who is  
24 licensed or otherwise regulated as a barber or cosmetologist by  
25 another country, another state, the District of Columbia, or a  
26 commonwealth or territory of the United States whose requirements  
27 for licensing or regulation were on the date of the licensing or

1 regulation substantially equal to those prescribed by this Act.  
2 Such an applicant is entitled to a license or certificate on  
3 submission of an application form and payment of an administrative  
4 fee.

5       Sec. 18. RENEWAL. (a) A license or specialty certificate  
6 issued under this Act expires two years from the date of issuance.  
7 A licensee may renew the license by applying for renewal on a form  
8 provided by the board and paying the renewal fee set by the board.  
9 Each applicant for renewal must submit a current health certificate  
10 in the manner provided by Section 13(i) of this Act.

11       (b) A license or certificate that has been expired for 90  
12 days or less may be renewed through the normal renewal process plus  
13 payment of a delinquency fee equal to one-half of the examination  
14 fee.

15       (c) A license or certificate that has been expired for  
16 longer than 90 days but less than two years may be renewed by  
17 paying to the board all unpaid renewal fees and a delinquency fee  
18 that is equal to the examination fee for the license.

19       (d) If a person's license or certificate has been expired  
20 for two years or longer, the person may not renew the license or  
21 certificate. The person may obtain a new license or certificate by  
22 submitting to reexamination and complying with the requirements and  
23 procedures for obtaining an original license or certificate.  
24 However, the board may renew without reexamination an expired  
25 license or certificate of a person who held a license or  
26 certificate in this state, moved to another state, and is currently  
27 licensed or certified and has been in practice in the other state

1 for the two years preceding application. The person must pay to  
2 the board a fee that is equal to the examination fee for the  
3 license or certificate.

4 (e) At least 30 days before the expiration of a person's  
5 license or certificate, the board shall send written notice of the  
6 impending expiration to the person at the person's last known  
7 address.

8 Sec. 19. BARBER SCHOOL; PERMIT. (a) A person may not  
9 operate a barber school in this state unless the person obtains a  
10 barber school permit as provided by this section.

11 (b) To be eligible for a barber school permit, the applicant  
12 must present evidence satisfactory to the board that the proposed  
13 school meets the requirements of this section. The board shall  
14 issue a permit to an applicant who applies to the board on a form  
15 provided by the board, passes a board inspection, presents  
16 satisfactory evidence, and pays the application fee, inspection  
17 fee, and permit fee set by the board.

18 (c) Each applicant shall provide the board with:

19 (1) a detailed drawing and chart of the proposed physical  
20 layout of the school;

21 (2) photographs of the proposed site for the school,  
22 including the interior and exterior of the building;

23 (3) a detailed copy of the training program;

24 (4) a copy of the school catalogue and promotional  
25 literature;

26 (5) if the building is not owned by the applicant, a copy of  
27 the lease; and

- 1           (6) a sworn statement of ownership.
- 2           (d) To be eligible for a permit, each barber school must  
3 have:
- 4           (1) an adequate school site housed in a substantial building  
5 of permanent construction that contains not less than 2,800 square  
6 feet of floor space divided into a senior department, a junior  
7 department, a class theory room, a supply room, an office, a  
8 dressing room and coatroom, and two modern restrooms;
- 9           (2) a hard-surfaced floor covering of tile or other suitable  
10 material;
- 11           (3) not less than 20 modern barber chairs with a cabinet and  
12 mirror for each chair;
- 13           (4) not less than one sink for each two chairs;
- 14           (5) a liquid sterilizer for each chair;
- 15           (6) an adequate number of latherizers, vibrators, and hair  
16 dryers for the use of the students;
- 17           (7) adequate lighting facilities;
- 18           (8) adequate classroom furnishings for the class theory  
19 room, including at least 20 classroom chairs, a blackboard,  
20 anatomical charts of the head, neck, and face, and one barber  
21 chair;
- 22           (9) a library accessible to students equipped with a medical  
23 dictionary and a standard work on human anatomy;
- 24           (10) adequate drinking fountain facilities on each floor;
- 25           (11) adequate restroom facilities for the students; and
- 26           (12) adequate fire protection facilities on each floor.
- 27           (e) Each barber school shall place a sign in a prominent

1 location on the outside of its building that reads "BARBER  
2 SCHOOL--STUDENT BARBERS," in a minimum size of 10-inch block  
3 letters. The school shall place printed signs with the same  
4 information inside the school.

5 (f) If a barber school changes ownership, the permittee  
6 shall notify the board of the change not later than the 10th day  
7 after the day on which the ownership is transferred.

8 (g) A permittee that wishes to change the location of a  
9 barber school must first obtain board approval of the site in the  
10 manner provided by Subsection (c) of this section.

11 (h) Each barber school must be under the direct supervision  
12 and control of a person who holds a barber instructor license  
13 issued under this Act.

14 (i) A barber school shall instruct students in the theory  
15 and practice of subjects considered necessary and beneficial by the  
16 board, including:

- 17 (1) scientific fundamentals of barbering;
- 18 (2) hygienic bacteriology;
- 19 (3) histology of the hair, skin, muscles, and nerves;
- 20 (4) the structure of the head, neck, and face;
- 21 (5) elementary chemistry relating to sterilization and  
22 antiseptics;
- 23 (6) common disorders of the skin and hair;
- 24 (7) massage of the muscles of the scalp, face, and neck;
- 25 (8) haircutting;
- 26 (9) shaving;
- 27 (10) shampooing, bleaching, and dyeing of the hair;



1           (11) manicuring;

2           (12) administration of facial treatments;

3           (13) hair weaving; and

4           (14) wig care and servicing.

5           (j) Each barber school shall devote a minimum of five  
6 one-hour periods each week to classroom instruction and shall  
7 provide practical instruction in work over the chair on Saturdays.  
8 The school shall maintain a recordbook of each student's daily  
9 attendance subject to inspection by the board.

10          (k) A student is eligible for a certificate of graduation  
11 from a barber school on satisfactory completion of a course of  
12 instruction of not less than 1,500 hours in courses approved by the  
13 board, including not less than 800 hours of practical instruction  
14 in the actual cutting of hair.

15          (l) A permit issued under this section is subject to annual  
16 renewal.

17          Sec. 20. PRIVATE BEAUTY CULTURE SCHOOL; PERMIT. (a) A  
18 person may not operate a private beauty culture school in this  
19 state unless the person obtains a private beauty culture school  
20 permit as provided by this section.

21          (b) To be eligible for a private beauty culture school  
22 permit, the applicant must present evidence satisfactory to the  
23 board that the proposed school meets the requirements of this  
24 section. The board shall issue a permit to an applicant who  
25 applies to the board on a form provided by the board, passes a  
26 board inspection, presents satisfactory evidence, and pays the  
27 application fee, inspection fee, and permit fee set by the board.

1 (c) Each application must be verified and must provide:

2 (1) a detailed floor plan of the school building that shows  
3 that the building is divided into three separate areas for  
4 instruction in theory, practice work of senior students, and  
5 practice work of junior students;

6 (2) a statement that the building is of permanent  
7 construction, has a minimum of 3,500 square feet of floor space,  
8 has separate restrooms for male and female students, and is  
9 equipped with the materials and furnishings required by board rule;  
10 and

11 (3) a statement that the building is fireproof.

12 (d) Each applicant shall furnish a surety bond in an amount  
13 of \$5,000, payable to the state and conditioned that it be used to  
14 refund any tuition paid to the school if the school closes or  
15 ceases operation before the courses of instruction are completed.

16 (e) Each school shall maintain a daily student attendance  
17 record. Each school shall maintain a copy of its curriculum in a  
18 conspicuous location and shall verify that the curriculum is  
19 followed.

20 (f) Each school shall be under the direct supervision and  
21 direction of a person who holds a cosmetology instructor license  
22 issued under this Act. A school shall maintain on its staff and on  
23 duty during business hours at least two cosmetology instructors.  
24 If student enrollment is less than 15, the school shall maintain on  
25 its staff at least one instructor.

26 (g) A student is eligible for graduation from a private  
27 beauty culture school on completion of a course of study of not

1 less than nine months and 1,500 hours of instruction.

2 (h) A student is eligible for graduation from a manicurist  
3 training program on completion of a course of study of not less  
4 than four weeks and 150 hours of instruction.

5 (i) A school may not receive compensation from a patron for  
6 student work performed by a student who has not completed at least  
7 10 percent of the hours of instruction required for a cosmetology  
8 operator license. Each school shall maintain in a conspicuous  
9 place a roster of student pictures and the names of the students  
10 who are enrolled in cosmetology courses. A school that violates  
11 this subsection is subject to suspension or revocation of its  
12 permit.

13 (j) A private beauty culture school, beauty shop, or  
14 specialty shop may not be conducted on the same premises unless  
15 they are separated by solid walls of permanent construction.

16 Sec. 21. BARBER STUDENTS; BARBER TECHNICIAN PERMIT.

17 (a) The board shall adopt rules relating to the regulation of the  
18 practice of barbering by students enrolled in a course of  
19 instruction at a barber school.

20 (b) The board may issue a permit to practice as a barber  
21 technician to a person who has worked not less than 30 days at a  
22 barber school regulated under this Act. The person must present  
23 satisfactory evidence to the board that the person is competent in  
24 shampooing, manipulations, making appointments, preparing patrons,  
25 and sterilizing tools and that the person understands the basic  
26 requirements of the barber laws of this state. The person is  
27 entitled to a barber technician permit on presentation of the

1 evidence and payment of a permit fee.

2 (c) A barber technician may assist a licensed barber in  
3 shampooing and in sterilizing tools used in a barber shop. A  
4 licensed barber shall personally supervise the work of a barber  
5 technician.

6 Sec. 22. COSMETOLOGY STUDENT PERMIT; TRANSFER OF HOURS. (a)  
7 Each cosmetology student enrolled in a private beauty culture  
8 school or a public school cosmetology program is required to hold a  
9 student permit. The permit shall state the name of the student and  
10 the name of the school. The board shall issue the student permit  
11 on submission of an application form prescribed by the board and  
12 payment of a nonrefundable permit fee. The school shall display  
13 the permits at the school.

14 (b) A cosmetology student may transfer completed hours of  
15 instruction to another school on submission to the executive  
16 director of the board of a transcript certified by the school in  
17 which the instruction was given that lists the number and courses  
18 of completed hours. On evaluation and approval of the transcript,  
19 the executive director shall certify in writing to the student and  
20 to the school to which the student desires to transfer that the  
21 stated hours and courses have been completed and that the student  
22 is not required to repeat those courses of instruction.

23 (c) A cosmetology student is entitled to a pro rata refund  
24 of tuition if the student becomes physically unable to complete the  
25 courses of instruction.

26 Sec. 23. BARBER SHOP LICENSE. (a) A person may not own,  
27 operate, or manage a barber shop unless the person holds a barber

1 shop license issued under this Act.

2 (b) A person who opens a barber shop must submit a written  
3 application to the board for a temporary barber shop license not  
4 later than the third day after the date on which the person opens  
5 the shop. The application must be accompanied by the inspection  
6 fee set as provided by this Act and must include the permanent  
7 address of the shop, a legal description of the premises, and any  
8 other information required by the board.

9 (c) The board shall issue a barber shop license to an  
10 applicant who holds a barber operator license and whose shop meets  
11 the minimum health rules adopted by the board and by the Texas  
12 Department of Health. The licensee shall display the barber shop  
13 license in a conspicuous place in the shop. Each barber shop must  
14 be under the direct supervision and control of a person who holds a  
15 barber operator license issued under this Act.

16 (d) A barber shop license is not transferable. If ownership  
17 of a shop is transferred to another person, the new owner must  
18 apply for a license not later than the 30th day after the date on  
19 which the ownership is transferred. A licensee who wishes to move  
20 the shop to a different location may move the shop after obtaining  
21 board approval for the new location and by notifying the board of  
22 the move not later than 10 days before the proposed date of the  
23 move.

24 (e) Each barber shop license issued under this Act expires  
25 on July 1 of each odd-numbered year. A licensee may renew the  
26 license by applying for renewal to the board and by paying the  
27 renewal fee set by the board.

1           Sec. 24. BEAUTY SHOP LICENSE. (a) A person who holds a  
2 beauty shop license may maintain an establishment in which any  
3 practice of cosmetology is performed. An applicant for a beauty  
4 shop license must submit a verified application to the board on a  
5 form prescribed by the board, accompanied by the license fee set by  
6 the board. The board shall issue a license to each applicant who  
7 presents evidence of compliance with the rules of the board and who  
8 pays the fee.

9           (b) Each beauty shop licensed under this Act must be under  
10 the direct supervision and control of a person who holds a  
11 cosmetology operator license issued under this Act.

12           Sec. 25. SPECIALTY SHOP LICENSE. (a) A person who holds a  
13 specialty shop license may maintain an establishment in which only  
14 a practice of cosmetology that is regulated under Section 16 of  
15 this Act is performed. An applicant for a specialty shop license  
16 must submit a verified application to the board on a form  
17 prescribed by the board, accompanied by the license fee set by the  
18 board. The board shall issue a license to each applicant who  
19 presents evidence of compliance with the rules of the board and who  
20 pays the fee.

21           (b) Each specialty shop licensed under this Act must be  
22 under the direct supervision and control of a person who holds a  
23 cosmetology operator license, barber operator license, or specialty  
24 certificate issued under this Act.

25           Sec. 26. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE,  
26 CERTIFICATE, OR PERMIT. After a hearing, the board may deny,  
27 suspend, or revoke a license, certificate, or permit issued under

1 this Act, or may otherwise discipline a person regulated under this  
2 Act, if the person:

3 (1) obtained or attempted to obtain a license, certificate,  
4 or permit by fraud or deception;

5 (2) engages in gross malpractice in practicing barbering or  
6 cosmetology;

7 (3) is negligent in practicing barbering or cosmetology;

8 (4) advertises, practices, or attempts to practice barbering  
9 or cosmetology under another person's name or trade name;

10 (5) advertises in a manner that tends to deceive or defraud  
11 the public; or

12 (6) engages in conduct punishable under Section 27 of this  
13 Act.

14 Sec. 27. PENALTY. (a) A person commits an offense if the  
15 person is subject to regulation under this Act and knowingly or  
16 intentionally violates Section 11 of this Act.

17 (b) A person commits an offense if the person knowingly or  
18 intentionally violates a requirement imposed under this Act or  
19 under a rule adopted under this Act.

20 (c) An inspector or other employee of the board may not sell  
21 barber or cosmetology supplies or engage in any other business for  
22 profit with a person regulated under this Act.

23 (d) An offense under this section is a Class A misdemeanor.

24 Sec. 28. APPLICATION OF SUNSET ACT. The board is subject to  
25 the Texas Sunset Act (Article 5429k, Vernon's Texas Civil  
26 Statutes). Unless continued in existence as provided by that Act,  
27 the board is abolished and this Act expires effective September 1,

1 1989.

2 Sec. 29. COMPLAINT INFORMATION. Each person who holds a  
3 license or certificate issued under this Act must prominently  
4 display in the principal office or location in which the person  
5 practices a sign provided by the board that contains the name,  
6 mailing address, and telephone number of the board and a statement  
7 informing consumers that a complaint against such a person may be  
8 directed to the board.

9 SECTION 2. ADVISORY COMMITTEE; REPORT. (a) Not later than  
10 October 15, 1987, the Texas Board of Barber and Cosmetology  
11 Examiners shall appoint an advisory committee composed of board  
12 members. The advisory committee shall be composed of two members  
13 who represent the interests of barbers and who are chosen by the  
14 barber members of the board, two members who represent the  
15 interests of cosmetologists and who are chosen from the  
16 cosmetologist members of the board, and two members who represent  
17 the interests of the general public and who are chosen by the  
18 presiding officer of the board. A public member designated by the  
19 presiding officer shall serve as chairman of the advisory  
20 committee. The associate commissioner for occupational education  
21 and technology of the Central Education Agency shall serve as an ex  
22 officio member of the committee with full voting privileges.

23 (b) The advisory committee shall develop recommendations for  
24 the Sunset Advisory Commission and the 71st Legislature relating to  
25 statutory and other changes required in order to establish a  
26 long-term effective structure for the combined regulation of  
27 barbers and cosmetologists. Any structure proposed by the



1 committee shall provide for the least restrictive regulatory  
2 program that protects the public.

3 (c) The advisory committee shall develop recommendations  
4 relating to:

5 (1) the structure and composition of the board's  
6 policy-making body;

7 (2) the structure, operation, and staffing of the board;

8 (3) appropriate standards for the licensure of individuals,  
9 shops, and schools; and

10 (4) appropriate board enforcement authority.

11 (d) The advisory committee shall prepare an interim report  
12 relating to its activities and findings and shall submit the  
13 interim report to the Sunset Advisory Commission not later than  
14 June 1, 1988. The advisory committee shall submit its final report  
15 to the 77th Legislature not later than February 1, 1989.

16 SECTION 3. ABOLITION OF BARBER BOARD. (a) The State Board  
17 of Barber Examiners is abolished.

18 (b) Chapter 65, Acts of the 41st Legislature, 1st Called  
19 Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is  
20 repealed.

21 SECTION 4. ABOLITION OF COSMETOLOGY COMMISSION. (a) The  
22 Texas Cosmetology Commission is abolished.

23 (b) Chapter 1036, Acts of the 62nd Legislature, Regular  
24 Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is  
25 repealed.

26 SECTION 5. REPEAL. Articles 8402, 8403, 8404, 8405, 8406,  
27 and 8407, Revised Statutes, are repealed.

1           SECTION 6. INITIAL APPOINTMENTS. In making the initial  
2 appointments to the Texas Board of Barber and Cosmetology  
3 Examiners, the governor shall designate four members for terms  
4 expiring in 1989, four members for terms expiring in 1991, and four  
5 members for terms expiring in 1993.

6           SECTION 7. EFFECTIVE DATE; TRANSITION. (a) This Act takes  
7 effect September 1, 1987.

8           (b) A person who holds a license, permit, or certificate  
9 under the law in effect until September 1, 1987, may continue to  
10 practice under that license, permit, or certificate until September  
11 1, 1988, and the prior law is continued in effect for that purpose.

12           (c) Any appropriations made by the 70 th Legislature to the  
13 State Board of Barber Examiners or to the Texas Cosmetology  
14 Commission are transferred to the Texas Board of Barber and  
15 Cosmetology Examiners on the effective date of this Act.

16           (d) The employees of the State Board of Barber Examiners and  
17 the Texas Cosmetology Commission become employees of the Texas  
18 Board of Barber and Cosmetology Examiners on the effective date of  
19 this Act. After that date, those employees serve at the pleasure  
20 of the board.

21           SECTION 8. EMERGENCY. The importance of this legislation  
22 and the crowded condition of the calendars in both houses create an  
23 emergency and an imperative public necessity that the  
24 constitutional rule requiring bills to be read on three several  
25 days in each house be suspended, and this rule is hereby suspended.

H. B. No. 2327

By

Chris Harris

A BILL TO BE ENTITLED

**AN ACT**

Relating to the regulation of barbers, cosmetologists, and certain hair care shops and salons: providing penalties.

**MAR 13 1987**

1. Filed with the Chief Clerk.

MAR 30 1987

2. Read first time and Referred to Committee on \_\_\_\_\_

Read first time and Referred to Committee on State Affairs

3. Reported        favorably (as amended) and sent to Printer at .  
(as substituted)

4. Printed and distributed at \_\_\_\_\_

5. Sent to Committee on Calendars at \_\_\_\_\_

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote)  
(Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_  
present, not voting).

7. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ years, \_\_\_\_\_ days, and \_\_\_\_\_ present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ years, \_\_\_\_\_ days, \_\_\_\_\_ present, not voting).

**10. Caption ordered amended to conform to body of bill.**

11. Motion to reconsider and table the vote by which H. B. \_\_\_\_\_ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

12. Ordered Engrossed at \_\_\_\_\_

**13. Engrossed.**

14. Returned to Chief Clerk at

**15. Sent to Senate.**

**Chief Clerk of the House**

## 16. Received from the House

17. Read, referred to Committee on \_\_\_\_\_

**18. Reported favorably**

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

**21. Regular order of business suspended by**

(a viva voce vote.)

(\_\_\_\_\_ years, \_\_\_\_\_ days.)

\_\_\_\_\_ 22. To permit consideration, reading and passage, Senate and Constitutional Rules  
suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ 23. Read second time \_\_\_\_\_ passed to third reading by:  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 24. Caption ordered amended to conform to body of bill.

\_\_\_\_\_ 25. Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays to place bill on third reading and final passage.

\_\_\_\_\_ 26. Read third time and passed by  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

OTHER ACTION:

OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_ 27. Returned to the House.

\_\_\_\_\_ 28. Received from the Senate (with amendments.)  
(as substituted.)

\_\_\_\_\_ 29. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record  
(Substitute) Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present,  
not voting).

\_\_\_\_\_ 30. Conference Committee Ordered.

\_\_\_\_\_ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record  
Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 32. Ordered Enrolled at \_\_\_\_\_

1827